(H1)

HIGH COURT OF CHHATTISGARH, BILASPUR

W.P.(S) No. 4248 of 2007

PETITIONER S.G. Kamle, aged about 56 years, Astt. Grade-II, S/o Shri G.U. Kamle, R/o- P.W.D. BTI Colony Kanker, District.- Kanker (C.G.)

Versus

RESPONDENTS

1. State Govt. of Chhattisgarh, Through Secretary, Public Works Department (P.W.D.), D.K.S. Bhawan, Distt.- Raipur (C.G.)
2. Shri R.R. Soni, aged about 56 years, Astt. Grade-II, P.W.D. Office Kanker, District- Kanker (C.G.)

Appearance:

Shri Somkant Verma, counsel for the petitioner.

Shri Yashwant Singh, Govt. Advocate for the State on advance copy.

ORAL ORDER
(23.07.2007)

SUNIL KUMAR SINHA, J.

Heard on admission.

The petitioner, who is working as Senior Accountant (Clerk), has been transferred from Kanker to Bhanupratappur on administrative grounds. His name finds place at serial No. 5 of common order issued by the Government on 07.07.07.

Learned counsel for the petitioner argues that the transfer has been effected on the behest of respondent No.2, who is working as Asstt. Grade-II in P.W.D. office, Kanker.

On being pointedly asked from the counsel for the petitioner about the period of petitioner, which he has spent in Kanker, learned counsel for the petitioner submits that the petitioner is posted there since last 7 years and now he has been transferred from Kanker to Bhanupratappur, which falls in the same District.

The Apex Court while dealing with the matter of ***Kendriya Vidyalaya Sangathan –V- Damodar Prasad Pandey, 2004 AIR SCW 5563*** referring to the various decisions has observed vide para 4 as follows:

"Transfer which is an incidence of service is not to be interfered with by the Courts unless it is shown to be clearly arbitrary or vitiated by malafide or infraction of any prescribed norms of principle governing the transfer (See ***Ambani Kanta Ray Vs. State of Orrissa).*** Unless the order of transfer is vitiated by mala fide or is made in violation of operative guidelines, the Court cannot interfere with it. (See ***Union of India Vs. S.L. Abbas).*** Who should be transferred and posted where is a matter for the administrative authority to decide. Unless the order of transfer is vitiated by mala fide or is made in violation of operative any guidelines or rules the Courts should not ordinarily interfere with it. In ***Union of India & others Vs. Janardan Debanath & another*** it was observed as follows:

> "No Government servant or employee of a public undertaking has any legal right to be posted forever at any one particular place or place of his choice since transfer of a particular employee appointed to the class or category or transferable posts from one place to another is not only an incident, but a condition of service, necessary too in public interest and efficiency in the public administration. Unless an order of transfer is shown to be an outcome of mala fide exercise or stated to be in violation of statutory provisions prohibiting any such transfer, the Courts or the Tribunals normally cannot interfere with such orders as a matter of routine, as though they were the appellate authorities substituting their own decision for that of the employee/management, as against such orders passed in the interest of administrative exigencies of the service concerned. This position was highlighted by this Court in *National Hydroelectric Power Corpn. Ltd. Vs. Shri Bhagwan.*"

The transfer is an incidence of service and nobody working on the transferable post can claim for posting at a particular place.

Considering the facts and circumstances of the case, I do not find any reason to interfere with such order, which could not be shown to be malafide or passed on extraneous consideration or in violation of any service Rule governing the case of employee.

The petition has no merits and the same is dismissed at the motion stage itself.

Sd/-
Sunil Kumar Sinha
Judge

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